



## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 507

[Docket ID: USA-2018-HQ-0016]

RIN 0702-AA70

#### Manufacture, Sale, Wear, and Quality Control of Heraldic Items

**AGENCY:** Department of the Army, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Department of the Army is finalizing its regulation describing the Army Heraldic Quality Control Program and the certification process for manufacturers in order to make Military Insignia. The rule establishes procedures governing the manufacture, commercial sale, reproduction, possession, and wear of military decorations, medals, badges, insignia and their components and appurtenances also discussed is the five-year renewal period for manufacturer certification and insignia authorizations and the procedure for authorizing the use of insignia on commercial items.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Charles V. Mugno, Office of the Administrative Assistant to the Secretary of the Army, Director of the Institute of Heraldry, (571) 515-0320.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

a. This final rule revises the Department of the Army's (DA) regulation, 32 Code of Federal Regulations (CFR) part 507, for implementing the Army Heraldic Quality

Control Program which was last published on May 18, 1998 (63 FR 27208). The revisions being finalized include a procedural change to manufacturer certification and insignia authorizations which add a five-year renewal period for manufacturer certification and insignia authorizations. This change insures the manufacturing base is current and insignia is periodically examined for quality. The second change is to the approving authority for the use of insignia images in commercial items. Pursuant to Title 10 U.S.C 2260, Licensing of intellectual property: retention of fees, the Secretary of the Army established the Army Trademark Licensing Program in 2006, formalizing the process for the licensing of marks owned by the Department of the Army, including heraldic insignia and other collective marks.

The authorities for this rule are 10 U.S.C. 7594; 15 U.S.C. 1051 et seq.; 10 U.S.C. 2260; 18 U.S.C 701, 704; 36 U.S.C. 901. Title 10 U.S.C. 7594 grants the Secretary of the Army the authority to design flags, insignia, badges, medals, seals, decorations, guidons, streamers, finial pieces for flagstaffs, buttons, buckles, awards, trophies, marks, emblems, rosettes, scrolls, braids, ribbons, knots, tabs, cords and similar items for other military departments and to advise other Federal departments and agencies on matters of heraldry. Title 15 U.S.C. 1051 et seq. is the statutory basis for the ownership and control of trademarks, service marks, certification marks, and collective marks. Title 10 U.S.C. 2260 grants the Secretary of the Army the authority to license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary of the Army. Title 18 U.S.C. 701 states manufacturing, selling and possession of any badge, identification card or insignia prescribed by the head of any department or agency of the United States is unlawful unless authorized by regulations made pursuant to law. Title 18 U.S.C. 704, also known as the "Stolen Valor Act" makes it illegal for a person to fraudulently claim having received a valor award

specified in the Act, with the intention of obtaining money, property, or other tangible benefit by convincing another that he or she received the award. Title 36 U.S.C. 901 grants authority to the Secretary of Defense to approve a service flag and lapel button for display by members of the immediate family of an individual serving in the Armed Forces of the United States during any period of war or hostilities in which the armed forces are engaged. Persons must apply to the Secretary of Defense for a license to manufacture and sell the approved service flag. That authority was delegated in DoD Manual 1348.33 to the Secretary of the Army.

(Available at <https://www.esd.whs.mil/Directives/issuances/dodm/>)

## **II. Summary of Major Provisions:**

Subpart A - Introduction. Includes discussion on purpose and applicability; references; provides a list of definitions, terms, and abbreviations; responsibly; outlines the responsibilities for the implementation of the program; statutory authority; identifies and defines the applicable statutes.

Subpart B - Manufacture and Sale of Decorations, Badges, and Insignia includes discussion on the process to become a certified manufacturer; provides requirements for the certification of insignia; discusses process to incorporate designs in commercial articles; discusses the possession and wear of decoration, service medal, badge, service ribbon, lapel button, or insignia.

Subpart C - Heraldic Quality Control Program discusses the program and the controlled heraldic items that fall under the program and identified insignia that are not authorized for commercial sale. This subpart also discusses penalties for violating the Quality Control Program and how complaints are processed.

Subpart D - License and Manufacture of the Service Flag and Service Lapel Button describes the application process for approval to make the Service Flag and Service Lapel Button.

### **III. Comments and Responses.**

The proposed rule was published in the *Federal Register* on June 12, 2020 (85 FR 35846-35852) for a 60-day comment period. The Department of the Army received 1 comment. The comment was not pertinent to the rule, so no action was taken and this rule is being finalized with no changes from the proposed rule.

### **Expected Impact of the Final Rule**

This rule facilitates the Department of the Army Heraldic Quality Control Program and the manufacturing of all military decorations, medals, badges, insignia and their components and appurtenances. The manufacturer certification process requires the manufacturer to submit four samples of insignia to show they have the capability to make insignia in accordance with government specifications. The submitted samples have a negligible value, under ten dollars, and less than five manufactures apply each year. The recertification process consists of a review of a manufacturer's performance during the certification period. There is no cost to the manufacturer for the review and recertification process.

### **B. Regulatory Reviews**

#### **Regulatory Flexibility Act:**

The Department of the Army does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule is not creating any new requirements for manufacturers of military insignia.

#### **Unfunded Mandates Reform Act:**

The Department of the Army certifies that this action does not include a mandate that may result in estimated costs to State, local or tribal governments in the aggregate or the private sector of \$100 million or more.

#### **Congressional Review Act, 5 U.S.C. 804(2)**

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the Federal Register. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

**National Environmental Policy Act:**

The Department of the Army has determined that this action is not covered under the National Environmental Policy Act because the rule is not a major Federal action that significantly affects the quality of the human environment.

**Paperwork Reduction Act:**

The Department of the Army has determined that the Paperwork Reduction Act does not apply. Manufacturers wanting to be certified provide general information already available to the public about the company such as name, address, points of contact, contact information and the type of insignia they want to produce. Annually, fewer than five manufacturers request certification.

**Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Property Rights):**

The Department of the Army has determined that Executive Order 12630 does not apply because the rule does not impair private property rights.

**Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review):**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). In accordance with the provisions of Executive Order 12866, this is not significant rule and was not reviewed by the Office of Management and Budget.

**Executive Order 13045 (Protection of Children from Environmental Health Risk and Safety Risks):**

The Department of the Army has determined that Executive Order 13045 does not apply because this substantive action in rulemaking is neither economically significant nor does the action concern environment health or safety risks that may disproportionately affect children.

**Executive Order 13132 (Federalism):**

The Department of the Army has determined that Executive Order 13132 does not apply because this rule will not have a substantial effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among various levels of government.

**List of Subjects in 32 CFR Part 507**

Decorations, medals, awards.

For reasons discussed in the preamble, the Department of the Army revises 32 CFR part 507 to read as follows:

**PART 507—MANUFACTURE, SALE, WEAR, AND QUALITY CONTROL OF HERALDIC ITEMS**

**Subpart A—Introduction**

**Sec.**

507.1 Purpose.

507.2 References.

507.3 Explanation of abbreviations and terms.

507.4 Responsibilities.  
507.5 Statutory authority.

### **Subpart B—Manufacture and Sale of Decorations, Badges, and Insignia**

507.6 Authority to manufacture.  
507.7 Certification of controlled heraldic items.  
507.8 Authority to sell.  
507.9 Reproduction of designs.  
507.10 Incorporation of designs or likenesses of approved designs in commercial articles.  
507.11 Possession and wear.

### **Subpart C—Heraldic Quality Control Program**

507.12 General.  
507.13 Controlled heraldic items.  
507.14 Articles not authorized for manufacture or commercial sale.  
507.15 Violations and penalties.  
507.16 Processing complaints of alleged breach of policies.

### **Subpart D—License and Manufacture of the Service Flag and Service Lapel Button**

507.17 – Authority to manufacture.  
507.18 – Application for licensing.

Authority: 10 U.S.C. 7594; 18 U.S.C 701, 704; 36 U.S.C. 901.

### **Subpart A—Introduction**

#### **§ 507.1 Purpose.**

This part prescribes the Department of the Army policy governing the manufacture, commercial sale, reproduction, possession, and wear of military decorations, medals, badges, insignia, and their components and appurtenances. It also establishes the Heraldic Quality Control Program to improve the appearance of the Army by controlling the quality of heraldic items purchased from commercial sources.

#### **§ 507.2 References.**

Related publications are listed in paragraphs (a) through (d) of this section. (A related publication is merely a source of additional information. The user does not have to read it to understand this part.)

(a) Department of Defense Manual 1348.33, Volume 3, Manual of Military Decorations and Awards: DoD-Wide Personal Performance and Valor Decorations. (Available at <https://www.esd.whs.mil/Directives/issuances/dodm/>)

(b) Army Regulation 360–1, Army Public Affairs Program. (Available at <https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx>)

(c) Army Regulation 670-1, Wear and Appearance of Army Uniforms and Insignia. (Available at <https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx>)

(d) Army Regulation 840-1, Department of the Army Seal, and Emblem and Branch of Service Plaques. (Available at <https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx>)

(e) Army Regulation 27-60, Intellectual Property. (Available at <https://armypubs.army.mil/ProductMaps/PubForm/AR.aspx>)

### **§ 507.3 Explanation of abbreviations and terms.**

- (a) *Abbreviations.* (1) CFR - Code of Federal Regulations.
- (2) DA - Department of the Army.
- (3) DAASA - Deputy Administrative Assistant to the Secretary of the Army
- (4) DLA - Defense Logistics Agency.
- (5) DUI - Distinctive unit insignia.
- (6) ID - Identification
- (7) MCS - Military Clothing Store.
- (8) RDI - Regimental Distinctive Insignia.
- (9) ROTC - Reserve Officers' Training Corps.
- (10) SSI - Shoulder sleeve insignia.
- (11) TIOH - The Institute of Heraldry.
- (12) U.S.C. - United States Code.



(b) *Terms--(1) Appurtenances.* Devices such as stars, letters, numerals, or clasps worn on the suspension ribbon of the medal, or on the ribbon bar that indicate additional awards, participation in specific events, or other distinguishing characteristics of the award.

(2) *Awards.* An all-inclusive term that consists of any decoration, medal, badge, ribbon, or appurtenance bestowed on an individual or unit.

(3) *Badge.* An award given to an individual for identification purposes or that is awarded for attaining a special skill or proficiency. Certain badges are available in full, miniature, and dress miniature sizes.

(4) *Cartoon.* A drawing, six times actual size, showing placement of stitches, color of yarn and number of stitches.

(5) *Certified manufacturer.* A manufacturer who demonstrated the capability to manufacture controlled heraldic items according to Government standards.

(6) *Certificate of authority to manufacture.* A certificate assigning manufacturers a hallmark and authorizing manufacture of heraldic items.

(7) *Decoration.* An award given to an individual as a distinctively designed mark of honor denoting heroism or meritorious or outstanding service or achievement.

(8) *Die.* The block of steel that is used to form a metal insignia and is the intricate three dimensional reversed design of the insignia cut into the surface of a block of steel.

(9) *Hallmark.* A distinguishing mark consisting of a letter and numbers assigned to certified manufacturers for use in identifying manufacturers of insignia.

(10) *Heraldic items.* All items worn on the uniform to indicate unit, skill, branch, award or identification and for which a design has been established by TIOH on an official drawing.

(11) *Heraldic Quality Control Program*. A program that improves the public image of the Army by controlling the quality of insignia purchased from commercial sources.

(12) *Hub*. The block of steel that is used to form a die and is the intricate three dimensional raised design of the insignia cut into the surface of a block of steel.

(13) *Lapel button*. A miniature enameled replica of an award, which is worn only on civilian clothing.

(14) *Letter of agreement*. A letter signed by manufacturers before certification, stating that the manufacturer agrees to produce heraldic items in accordance with specific requirements.

(15) *Letter of authorization*. A letter issued by TIOH that authorizes the manufacture of a specific heraldic item after quality assurance inspection of a preproduction sample.

(16) *Medal*. An award issued to an individual for the performance of certain duties, acts, or services, consisting of a suspension ribbon made in distinctive colors and from which hangs a medallion.

(17) *Rosette*. A lapel device created from gathering the suspension ribbon of a medal into a circular shape. The device is worn on the lapel of civilian clothing.

(18) *Service medal*. An award made to personnel who participated in designated wars, campaigns, or expeditions or who have fulfilled specified service requirements in a creditable manner.

(19) *Tools*. The generic term used for hubs, dies, cartoons, and drawings used in the manufacture of heraldic items.

(20) *Unit award*. An award made to an operating unit, which is worn by members of that unit who participated in the cited action (permanent unit award).

#### **§ 507.4 Responsibilities.**

The Director of The Institute of Heraldry (TIOH) will—

(a) Monitor the overall operation of the Heraldic Quality Control Program.

(b) Establish policy and procedures to:

(1) Certify manufacturers of insignia and plaques.

(2) Control the manufacture and quality assurance of military decorations, the DA seal and emblem, Branch of Service plaques, and other heraldic items.

(3) Grant certificates of authority for the manufacture and commercial sale of Service flags and Service lapel buttons.

(4) Provide heraldic services to the Executive branch, Department of Defense, and other Federal agencies on a reimbursable basis.

(5) Provide advisory opinions on the use of Army heraldic items for licensing or other commercial purposes (for example, the Army Emblem, Army Flag, unit insignia, and items approved for wear on uniforms), at the request of the Army Trademark Licensing Program.

#### **§ 507.5 Statutory authority.**

(a) The manufacture, commercial sale, possession, and reproduction of badges, identification cards, insignia, or other designs prescribed by the head of a U.S. department or agency, or colorable imitations of them, are governed by Title 18, United States Code, section 701 (18 U.S.C. 701).

(b) The wear, manufacture, and commercial sale of military decorations, medals, badges, and their components and appurtenances, or colorable imitations thereof, are governed by 18 U.S.C. 704.

(c) The Army's providing heraldic services to other Military departments and Federal agencies is governed by 10 U.S.C. 7594.

(d) The display of and license to manufacture and sell the approved Service flag or Service lapel button is governed by 36 U.S.C. 901.

(e) The ownership and licensing of trademarks, service marks, and collective marks such as DUI, RDI, SSI, and other Army-owned heraldic insignia are governed by 15 U.S.C. 1051 et seq., and 10 U.S.C. 2260.

## **Subpart B—Manufacture and Sale of Decorations, Badges, and Insignia**

### **§ 507.6 Authority to manufacture.**

(a) Only manufacturers that TIOH has certified and has issued a certificate of authority to may produce heraldic items.

(1) TIOH will issue a certificate of authority to manufacturers who can demonstrate they have the capability to manufacture controlled heraldic items according to Government specifications or purchase descriptions through the certification process.

(2) The certificate of authority to manufacture is applicable only for the individual, firm, or corporation indicated and will be valid for 5 years.

(3) TIOH will assign a hallmark to each certified manufacturer. All controlled heraldic items manufactured for commercial sale will bear the manufacturer's hallmark.

(4) TIOH exclusively uses the "IOH" hallmark for the development of new controlled heraldic items; it is not authorized for use on items for commercial sale.

(b) A certificate of authority to manufacture may be revoked or suspended under the procedures prescribed in § 507.16.

(c) A list of certified manufacturers is on the TIOH web page at <https://tioh.army.mil/>.

### **§ 507.7 Certification of controlled heraldic items.**

(a) The manufacture and commercial sale of controlled heraldic items are not authorized until the certified manufacturer receives a letter of authorization from TIOH. Manufacturers who want to manufacture and sell controlled heraldic items must submit four production samples of each item to TIOH for authorization. If TIOH approves the production samples, it will provide a letter of authorization to manufacture along with

one certified production sample to the manufacturer. Letters of authorization for certified heraldic items are valid for 5 years.

(b) The Director of TIOH may revoke or suspend a letter of authorization for failure to manufacture the heraldic item in accordance with applicable Government specifications.

#### **§ 507.8 Authority to sell.**

No certificate of authority to manufacture is required for selling controlled heraldic items listed in § 507.13. However, all sellers must ensure that all articles they sell bear hallmarks assigned by TIOH and are manufactured by certified manufacturers in conformance with applicable Government specifications.

#### **§ 507.9 Reproduction of designs.**

(a) The photographing or printing of any decoration, service medal, service ribbon, badge, lapel button, insignia, or other device of a design the Secretary of the Army has prescribed for members of the Army to use is authorized, provided that such reproduction does not discredit the U.S. Army and is not used to defraud or misrepresent the identification or status of an individual, organization, society, or other group of persons.

(b) The making or executing in any manner of any engraving, impression, or colorable imitation in the likeness of any decoration, service medal, service ribbon, badge, lapel button, insignia, or other device of a design the Secretary of the Army has prescribed for members of the Army to use is prohibited without prior approval in writing from the Army Trademark Licensing Program.

(c) Except when used to illustrate a particular article that is offered for commercial sale, Army Regulation 360–1, paragraph 8–9e, prohibits the use of Army themes, material, uniforms, or insignia in advertisements and promotions for entertainment-oriented products that could imply Army endorsement of the product.

Direct requests to the Chief, Public Affairs (SAPA–ZA), 1500 Army Pentagon, Washington, DC 20310–1500.

**§ 507.10 Incorporation of designs or likenesses of approved designs in commercial articles.**

(a) Federal law and Army policy restrict the use of military designs. The manufacture of articles for commercial sale that incorporate designs or likenesses of decorations, service medals, service ribbons, and lapel buttons is prohibited. Certain designs or likenesses of insignia, such as badges or organizational insignia, may be incorporated in articles manufactured for commercial sale, provided that the Army Trademark Licensing Program has granted permission in writing as specified in paragraph (b) of this section.

(b) The Army Trademark Licensing Program is responsible for reviewing requests for permission to incorporate certain insignia and other Army-owned marks in articles manufactured for commercial sale. Requests should be directed to the Director, Army Trademark Licensing Program, 2530 Crystal Drive, Suite 12140, Arlington, VA 22202-3934.

**§ 507.11 Possession and wear.**

(a) The wearing of any decoration, service medal, badge, service ribbon, lapel button, or insignia that the Army has prescribed or authorized by any person not properly authorized to wear such device or the use of any decoration, service medal, badge, service ribbon, lapel button, or insignia to misrepresent the identification or status of the person by whom such is worn is prohibited. Any person who violates this paragraph (a) is subject to punishment as prescribed in the statutes referred to in § 507.5.

(b) Mere possession by a person of any of the articles prescribed in § 507.13 (except identification cards) is authorized, provided that such possession is not used to defraud or misrepresent the identification or status of the individual concerned.

(c) Articles specified in § 507.13, or any distinctive parts (including suspension ribbons and service ribbons) or colorable imitations thereof, will not be used by any organization, society, or other group of persons without prior approval in writing by the Army Trademark Licensing Program as specified in § 507.10(b).

## **Subpart C—Heraldic Quality Control Program**

### **§ 507.12 General.**

The Heraldic Quality Control Program provides a method for ensuring that controlled heraldic items are manufactured by certified manufacturers in accordance with Government specifications. The design of metal insignia will be an exact duplicate of the design of the Government die or loaned hub from which the certified manufacturer's working die is extracted. The design of textile insignia will be embroidered in accordance with Government-furnished specification and cartoon.

### **§ 507.13 Controlled heraldic items.**

(a) Controlled heraldic items will be manufactured in accordance with Government specifications, using Government loaned hubs, dies, or cartoons, by TIOH-certified manufacturers.

(b) The heraldic items listed in paragraphs (b)(1) through (13) of this section are controlled and authorized for manufacture and commercial sale under the Heraldic Quality Control Program when specifically authorized by TIOH.

(1) All authorized appurtenances and devices for decorations, medals, and ribbons such as oak leaf clusters, service stars, arrowheads, "V" device, and clasps.

(2) Combat, special skill, and qualification badges and bars.

(3) Identification badges.

- (4) All approved Shoulder Sleeve Insignia.
- (5) All approved Distinctive Unit Insignia.
- (6) All approved Regimental Distinctive Insignia.
- (7) All approved Combat Service Identification Badges.
- (8) Fourragères and lanyards.
- (9) Lapel buttons.
- (10) Decorations, service medals, and ribbons, except for the Medal of Honor.
- (11) Replicas of decorations and service medals for grave markers. Replicas are to be at least twice the size prescribed for decorations and service medals.
- (12) Service ribbons and unit awards.
- (13) Rosettes, except for the Medal of Honor.
- (c) Deviations from the prescribed specifications for the items listed in paragraph (b) of this section are not permitted without prior approval, in writing, by TIOH.
- (d) Hubs, dies, and cartoons are not provided to manufacturers for the following items. However, manufacturing will be in accordance with the Government-furnished drawing.
  - (1) Shoulder Loop Insignia, Reserve Officers' Training Corps (ROTC), U.S. Army.
  - (2) Institutional SSI, ROTC, U.S. Army.
  - (3) Background trimming/flashes, U.S. Army.
  - (4) Hand-embroidered bullion insignia.

**§ 507.14 Articles not authorized for manufacture or commercial sale.**

The following articles are not authorized for manufacture and commercial sale, except under contract with the Defense Logistics Agency, Troop Support (DLA Troop Support):

- (a) The Medal of Honor.
- (b) Service ribbon for the Medal of Honor.



(c) Medal of Honor Rosette.

(d) Medal of Honor Flag.

(e) Military Department Service flags (prescribed in Army Regulation 840–10).

(f) Articles for commercial sale that incorporate designs or likenesses of insignia listed in § 507.13, except when authorized in writing by the Army Trademark Licensing Program as specified in § 507.10(b).

#### **§ 507.15 Violations and penalties.**

(a) TIOH will revoke a certificate of authority to manufacture when the holder intentionally violates any of the provisions of this part or does not comply with the agreement the manufacturer signed to receive a certificate.

(b) Violations are also subject to penalties as prescribed in the statutes referred to in § 507.5.

(c) Repetition or continuation of violations after official notice will be deemed as corroborating evidence of intentional violation.

#### **§ 507.16 Processing complaints of alleged breach of policies.**

(a) *Suspension or revocation of a certificate of authority to manufacture.* TIOH may suspend or revoke a certificate of authority to manufacture if the manufacturer breaches quality control policies. The term “quality control policies” includes the obligation of a manufacturer to produce insignia in accordance with all applicable Government specifications, manufacturing drawings, and cartoons and other applicable instructions TIOH provided. Breaches of quality control policies may be identified by TIOH through the Quality Control Inspection Program or through registered complaints to TIOH.

(b) *Reporting alleged breach of quality control.* Complaints and reports of an alleged breach of quality control policies will be forwarded to the Director, The Institute of Heraldry, 9325 Gunston Road, Room S113, Fort Belvoir, VA 22060–5579.

(c) *Informal investigation of allegations.* The Director may decide to suspend or revoke a certificate of authority to a manufacturer based on evidence gathered during a TIOH heraldic quality control inspection or from a registered complaint. The Director may initiate an informal investigation of an allegation of breach(es) of the heraldic quality control policy.

(d) *Heraldic Quality Control Inspection Program.* (1) TIOH will conduct periodic quality control inspections of on hand stocks of heraldic items maintained by:

- (i) Exchange military clothing stores.
- (ii) Certified manufacturers.

(2) Upon completion of quality control inspections, TIOH will provide a report of deficiencies to the appropriate retail outlet or Commander, DLA Troop Support, and the certified manufacturer responsible for the production of the item. The notification to the manufacturer will require assurances of compliance with quality control policies. The report of deficiencies will be reviewed upon recertification of the manufacturer. Any recurrence of the same breach will be considered a refusal to perform, and the Director will take further action to suspend or revoke certification.

(e) *Complaint of alleged breach of quality control policy.* (1) If an investigation is initiated, the appointed investigator will impartially ascertain facts and gather appropriate evidence to substantiate or invalidate allegations of impropriety. The investigator will submit a report containing a summarized record of the investigation with findings of each allegation and supporting evidence to the Director.

(2) If the investigation substantiates allegation(s) of a breach of quality control, the Director will notify the manufacturer in writing that the Director is contemplating suspending or revoking the certificate. The notification will include:

- (i) The specific allegations and findings of the investigator;
- (ii) All evidence provided to the Director in the investigation;

(iii) A citation to this part as the authority under which the Director may suspend or revoke the certificate of authority if the situation warrants after the manufacturer has had an opportunity to reply;

(iv) What actions, if the allegations are undisputed, are required to provide adequate assurance that future performance will conform to quality control policies;

(v) The right to reply within 45 days of receipt of the notification in order to submit additional materials and evidence for consideration, to refute the allegations, or provide assurances that future performance will conform to quality control policies; and

(vi) That a failure to reply within 45 days, or if there is any recurrence of the same breach will be considered a refusal to perform, and the Director will take further action to suspend or revoke certification.

(f) *Refusal to perform.* (1) If the manufacturer fails to reply within a reasonable time to the letter authorized by paragraph (e) of this section, refuses to give adequate assurances that future performance will conform to quality control policies, indicates by subsequent conduct that the breach is continuous or repetitive, or disputes the allegations of breach, the Director will direct that a public hearing be conducted on the allegations.

(2) A hearing examiner will be appointed by appropriate orders. The examiner may be either a commissioned officer or a civilian employee above the grade of GS-7.

(3) The specific written allegations, together with other pertinent material, will be transmitted to the hearing examiner for introduction as evidence at the hearing.

(4) For failure to return a loaned tool, manufacturers may be suspended without referral to a hearing specified in paragraph (f)(1) of this section; however, the manufacturer will be advised, in writing, that tools are overdue and suspension will take effect if tools are not returned within the specified time.

(g) *Notification to the manufacturer by examiner.* Within a 7-day period following the receipt by the examiner of the allegations and other pertinent material, the examiner will transmit a registered letter of notification to the manufacturer informing him or her of the—

(1) Specific allegations.

(2) Directive of the Director requiring the holding of a public hearing on the allegations.

(3) Examiner's decision to hold the public hearing at a specific time, date, and place that will be not earlier than 30 days from the date of the letter of notification.

(4) Ultimate authority of the Director to suspend or revoke the certificate of authority if the record developed at the hearing so warrants.

(5) Right to—

(i) A full and fair public hearing.

(ii) Be represented by counsel during the hearing at no cost to the Government.

(iii) Request a change in the date, time, or place of the hearing, for purposes of having reasonable time in which to prepare the case.

(iv) Submit evidence and present witnesses in his or her own behalf.

(v) Obtain at no cost a verbatim transcript of the proceedings, upon written request filed before the commencement of the hearing.

(h) *Public hearing by examiner.* (1) At the time, date, and place designated in accordance with paragraph (g)(3) of this section, the examiner will conduct the public hearing.

(i) A verbatim record of the proceedings will be maintained.

(ii) All previous material received by the examiner will be introduced into evidence and made part of the record.

(iii) The Government may be represented by counsel at the hearing.

(2) Subsequent to the conclusion of the hearing, the examiner will make specific findings on the record before him or her concerning each allegation.

(3) The complete record of the case will be forwarded to the Director.

(i) *Action by the Director.* (1) The Director will review the record of the hearing and either approve or disapprove the findings.

(2) Upon arrival of a finding of breach of quality control policies, the manufacturer will be so advised.

(3) After review of the findings, the certificate of authority may be revoked or suspended. If the certificate of authority is revoked or suspended, the Director will—

(i) Notify the manufacturer of the revocation or suspension.

(ii) Remove the manufacturer from the list of certified manufacturers.

(iii) Inform the Army & Air Force Exchange Service (AAFES) and the Defense Logistics Agency-Troop Support of the action.

(j) *Reinstatement of certificate of authority.* Upon receipt of adequate assurance that the manufacturer will comply with quality control policies, the Director may reinstate a certificate of authority that has been suspended or revoked.

#### **Subpart D—License and Manufacture of the Service Flag and Service Lapel Button**

##### **§ 507.17 Authority to manufacture.**

(a) The Secretary of Defense has designated the Secretary of the Army to grant certificates of authority for the manufacture and commercial sale of Service flags and Service lapel buttons.

(b) Any person, firm, or corporation that wishes to manufacture the Service flag or lapel button must apply for a certificate of authority to manufacture from TIOH.

##### **§ 507.18 Application for licensing.**

(a) Applicants who want to manufacture and sell Service flags or Service lapel buttons should contact the Director, The Institute of Heraldry, 9325 Gunston Road,

Room S113, Fort Belvoir, VA 22060-5579, to obtain an agreement to manufacture, drawings, and instructions for manufacturing the Service flag and Service lapel button.

(b) Certificates of authority to manufacture Service flags and Service lapel buttons will be valid for 5 years from the date of issuance, at which time applicants must reapply for a new certificate of authority.

**James W. Satterwhite Jr.,**

*Army Federal Register Liaison Officer*

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